

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 125/89
T.A. No.

DATE OF DECISION 22-7-93

Shri B.S. Chauhan Petitioner

Shri K.K. Shah Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B. Patel

Vice Chairman.

The Hon'ble Mr. V. Radhakrishnan

Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

NO

(14)

Shri Bhavansinh Suraj Mal Chauhan
C/o Kiran K. Shah
3, Achalayatan Society II
B/H Memnagar Fire Station
Navrangpura Ahmedabad.

Applicants

Advocate Shri K.K. Shah

Versus

1. Union of India
(Notice to be served through
Chairman,
Dak-Tar Bhavan, Dept of Post & Telegraph
New Delhi)
2. Superintendent of Post Offices
Gandhinagar Division, Sector 30
Gandhinagar 382 029
3. Sub-Divisional Inspector
Gandhinagar Division Sector 19
Gandhinagar
4. Mr. P.B. Sharma
notice to be served through Respondent no.3 Respondents

Advocate Shri Akil Kureshi

ORAL JUDGEMENT

In

O.A. 125 of 1989

Date: 28-7-93

Per Hon'ble Shri N.B.Patel

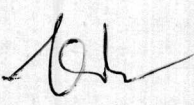
Vice Chairman.


The applicant has been working as
E.D. Agent at village Palundra, Taluka Dehgam, since 1975.
He has also been working as Primary Teacher in the same
village ~~xxxx~~ since quite long. By the impunged order

dated 1-3-1989 he is removed from service as E.D. Agent on the ground that under the directives of State Government it was not permissible to Primary Teachers to be employed as E.D. Agents and on the ground that the applicant's duty hours as teacher and his duty hours as E.D. Agent were overlapping to some extent. In this connection, our attention is drawn to the instruction issued by the Postal Department by their order dated 17-4-1979 regarding the circumstances in which teachers working as E.D. Agents should be removed from service ^{as} ~~of~~ E.D. Agents and the procedure to be followed before passing the order removing ^{any} ~~any~~ such teacher from service as E.D. Agent. These instructions show that action of removal from the post of E.D. Agent can be considered only if general public and the Gram Panchayat etc complain in writing about their work being unsatisfactory on the ground of ^{their} ~~either~~ discharging duties as teachers and E.D. Agents simultaneously. The instructions further show that, even if such complaints are received, the concerned authority has to make a proper inquiry and can pass an order of removal, only ^{after} if such inquiry, the procedure for taking -- disciplinary actions against the ^{employee} ~~E.D. Agent~~ is followed. It is also provided for by this circular that when the working hours of the Post Offices and that of the school clash, the concerned E.D. Agent should first be asked to resign from either of the posts and only if he fails to do so, that he should be removed from service after following the prescribed procedure.

2. There is absolutely no dispute about the fact that the procedure required to be followed by the aforesaid circular, namely, holding of inquiry like disciplinary inquiry and of giving option to the applicant either to resign

from his service as teacher, before passing the order of his removal from service as ED Agent, was followed. There should, therefore, be no doubt about the impugned order being liable to be quashed and set aside. The application is ^{therefore} allowed and the impugned order dated 1-3-1989 (Annexure A) by which the applicant is removed from service as E.D. Agent is hereby quashed ^{and} set aside, and the applicant is directed to be treated as continuing in service as ^{by} ~~the~~ the said order is non-est. Since ~~under~~ the applicant is continued in service as ED Agent ~~after~~ the interim order of this Tribunal, there is no question of issuing any direction regarding admissibility of consequential benefits to the applicant. It is made clear that if respondents find it necessary to take action of removal of the applicant from service on the ground of his working simultaneously as teacher and E.D. Agent it would be open to them to take such action in the manner provided for by the circular dated 17-4-79 ^{and} other circulars ^{and} instructions, if any, issued from time to time having bearing on the question. No order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman.

*AS.